

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE ENROLLED ACT No. 1638

AN ACT to amend the Indiana Code concerning agriculture.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 15-1.5-10.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The term of an individual appointed to the trustees under section 4(a)(11) of this chapter:

- (1) is three (3) years; and
- (2) expires September 30 of the year of expiration.

(b) A member appointed under section 4(a)(11) of this chapter may be reappointed to the trustees. ~~However,~~ **Except as provided in subsection (c),** a member appointed under section 4(a)(11) may not serve for more than nine (9) years in any twelve (12) year period.

(c) For purposes of the limitation on the number of years a member may serve under subsection (b), any time of not more than two (2) years a member serves:

- (1) as an initial appointment to the trustees; or**
- (2) to fill a vacancy;**

may not be considered.

SECTION 2. IC 36-7-4-616 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 616. (a) ~~As used in this section, "nonconforming use land" means land that satisfies both of the~~

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following:

(1) The land is agricultural land that is used contrary to a comprehensive plan or zoning ordinance established for the area where the land is located.

(2) The land was used for agricultural purposes before the adoption of a comprehensive plan or zoning ordinance for the area where the land is located.

(b) Land remains as nonconforming use land as long as the land is used for agricultural purposes for any three (3) year period in a five (5) year period. The definitions used in this section apply only to this section.

(b) As used in this section, "agricultural use" refers to land that is used for:

(1) the production of livestock or livestock products, commercial aquaculture, equine or equine products, land designated as a conservation reserve plan, pastureland, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, bees and apiary products, tobacco, or other agricultural crops, in the case of land that was not subject to a comprehensive plan or zoning ordinance before the most recent plan or zoning ordinance, including any amendments, was adopted; or

(2) agricultural purposes as defined in or consistent with a comprehensive plan or zoning ordinance that:

(A) the land was subject to; and

(B) was repealed before the adoption of the most recent comprehensive plan or zoning ordinance, including any amendments.

(c) As used in this section, "agricultural nonconforming use" means the agricultural use of land that is not permitted under the most recent comprehensive plan or zoning ordinance, including any amendments, for the area where the land is located.

(d) An agricultural use of land that constitutes an agricultural nonconforming use may be changed to another agricultural use of land without losing agricultural nonconforming use status.

(e) A county or municipality may not, through the county or municipality's zoning authority, do any of the following:

(1) Terminate an agricultural nonconforming use on nonconforming use land as long as if the agricultural nonconforming use has been maintained for at least any three (3) year period in a five (5) year period.

(2) Restrict any an agricultural nonconforming use. on



~~nonconforming use land.~~

(3) ~~Require an owner of nonconforming use land to obtain~~ any of the following for the **agricultural nonconforming** use of the land: ~~for agricultural purposes:~~

- (A) A variance for the land.
- (B) A special exception for the land.
- (C) A special use for the land.
- (D) A contingent use for the land.
- (E) A conditional use for the land.

(f) Notwithstanding subsection (e), this section does not prohibit a county, a municipality, or the state from requiring an agricultural nonconforming use to be maintained and operated in compliance with all:

- (1) state environmental and state health laws and rules; and**
- (2) requirements to which conforming agricultural use land is subject under the county's comprehensive plan or zoning ordinance.**

SECTION 3. IC 36-7-11.1-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13.1. (a) ~~As used in this section, "nonconforming use land" means land that satisfies both of the following:~~

- ~~(1) The land is agricultural land that is used contrary to a comprehensive plan or zoning ordinance established for the area where the land is located.~~
- ~~(2) The land was used for agricultural purposes before the adoption of a comprehensive plan or zoning ordinance for the area where the land is located.~~

~~(b) Land remains as nonconforming use land as long as the land is used for agricultural purposes for any three (3) year period in a five (5) year period. The definitions used in this section apply only to this section.~~

(b) As used in this section, "agricultural use" refers to land that is used for:

- (1) the production of livestock or livestock products, commercial aquaculture, equine or equine products, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, bees and apiary products, tobacco, or other agricultural crops, in the case of land that was not subject to a comprehensive plan or zoning ordinance before the most recent plan or zoning ordinance, including any amendments, was adopted; or**
- (2) agricultural purposes as defined in or consistent with a**



comprehensive plan or zoning ordinance that:

(A) the land was subject to; and

(B) was repealed before the adoption of the most recent comprehensive plan or zoning ordinance, including any amendments.

(c) As used in this section, "agricultural nonconforming use" means the agricultural use of the land is not permitted under the most recent comprehensive plan or zoning ordinance, including any amendments, for the area where the land is located.

(d) An agricultural use of land that constitutes an agricultural nonconforming use may be changed to another agricultural use of land without losing agricultural nonconforming use status.

(e) A county or municipality may not, **through the county or municipality's zoning authority**, do any of the following:

(1) Terminate an agricultural nonconforming use ~~on nonconforming use land as long as~~ if the agricultural nonconforming use is maintained for at least any three (3) year period in a five (5) year period.

(2) Restrict ~~any~~ **an** agricultural nonconforming use. ~~on nonconforming use land.~~

(3) Require ~~an owner of nonconforming use land to obtain~~ any of the following for the ~~nonconforming~~ **agricultural nonconforming** use of the land:

(A) A variance for the land.

(B) A special exception for the land.

(C) A special use for the land.

(D) A contingent use for the land.

(E) A conditional use for the land.

(F) A permit for work under section 8 of this chapter.

(G) A certificate of appropriateness.

(f) **Notwithstanding subsection (e), this section does not prohibit a county, a municipality, or the state from requiring an agricultural nonconforming use to be maintained and operated in compliance with all:**

(1) state environmental and state health laws and rules; and

(2) requirements to which conforming agricultural use land is subject under the county's comprehensive plan or zoning ordinance.

SECTION 4. [EFFECTIVE UPON PASSAGE]: (a) The attorney general and the commissioner of agriculture shall jointly conduct a study of the contractual arrangements prevalent throughout the livestock production industry.



(b) The study must conclude by December 1, 1999.

(c) By December 31, 1999, the attorney general and the commissioner of agriculture shall jointly report to the legislative council the findings and recommendations of the study conducted under subsection (a).

(d) This SECTION expires January 1, 2000.

SECTION 5. An emergency is declared for this act.

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